

## COMMITTEE REPORT

**Date:** 18 April 2013                      **Ward:** Guildhall  
**Team:** Major and                              **Parish:** Guildhall Planning Panel  
                    Commercial Team

**Reference:** 13/00347/FUL  
**Application at:** 3 Little Stonegate York YO1 8AX  
**For:** Use of highway for placing of tables and chairs in connection  
                    with approved bar/restaurant.  
**By:** Arc Inspirations LLP  
**Application Type:** Full Application  
**Target Date:** 23 April 2013  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application relates to no.3 Little Stonegate, which has recently been given planning permission to operate as a drinking establishment/restaurant (application 12/02521/FUL, approved at committee in December 2012). This application is to allow the premises to have tables and chairs on the highway outside the premises.

1.2 There are cafes/bars to each side of the application site which have permission for pavement cafes - Bobo Lobo and Kennedys.

1.3 The host building is listed at grade 2 and is within the Central Historic Core Conservation Area. Little Stonegate is one of the city centre foot-streets

1.4 The application has been called to committee by Cllr B Watson, to assess the cumulative impact of such uses on this part of the city centre.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area

Conservation Area GMS Constraints: Central Historic Core

Listed Buildings GMS Constraints: Grade 2; 3 Little Stonegate York YO1 2AX

2.2 Policies:

CYHE2 Development in historic locations

CYS6 Control of food and drink (A3) uses

CYS7 Evening entertainment including A3/D2

### **3.0 CONSULTATIONS**

Guildhall Planning Panel

3.1 No objection.

Police Architectural Liaison Officer

3.2 No objection.

Publicity

3.3 The deadline for comment was 29.3.2013. One representation has been received from Adam Sinclair on behalf of the Dining Warehouse opposite. The letter was not in objection to the proposal, but it did ask that the following measures were undertaken to mitigate the impact on amenity and the surrounding environment

- the area is cleared of litter at closing time
- there is no damage to neighbouring premises (stubbing out of cigarette ends has caused damage in the past)
- noise levels are controlled to avoid disturbance and to respect the character and appearance of the conservation area
- the use ceases to trade at midnight
- adequate space is retained for servicing/delivery vehicles (the property has morning deliveries and one servicing van which arrives at around 5pm each day).

### **4.0 APPRAISAL**

KEY ISSUES

4.1 The considerations are the impact on the conservation area and setting of the host building, which is grade 2 listed, the vitality and viability of the city centre, the amenity of surrounding occupants and highway safety.

ASSESSMENT

4.2 The application asks for a single row of tables to be placed on the footpath. The requested operating hours were from 9am to midnight each day of the week, although the applicants have agreed not to put furniture out until the foot street hours apply. The neighbouring premises have permission to operate their pavement cafes as follows -

Bobo Lobo (5 Little Stonegate)

12/02242/FUL - operating hours 0900-2400 hours each day of the week

Kennedy's (1 Little Stonegate)

10/00979/FUL - operating hours 09:00 to 22:00 each day of the week

## IMPACT ON HERITAGE ASSETS

4.3 The host premises are a grade 2 listed building and the site is within the Central Historic Core Conservation Area. Local Plan policies HE2, HE3 and HE4 are consistent with national planning policy in that they seek to preserve or enhance the character and appearance of conservation areas and the setting of listed buildings. A priority of the Central Historic Core Conservation Area Conservation Area Appraisal is to de-clutter the streets. The priority is intended to ease pedestrian movement and to improve the character and appearance of the conservation area.

4.4 The proposed pavement cafe would sit between two others, and therefore potentially would have a limited impact on views along the street. The permissions for the neighbouring premises each specifically advise that there should be no umbrellas, as these are unduly prominent and block views of attractive listed buildings which are of special architectural interest (note that there is an ongoing enforcement case against Kennedy's with regards their furniture). It will be necessary again in this case to prevent umbrellas being installed, and none are shown on the amended plans. The other furniture - tables and chairs and the enclosing barrier would be at a low level and would not have an undue visual impact.

4.5 Typically a condition is imposed on outside seating areas that furniture is stored inside the premises outside opening hours, in the interests of visual amenity.

## VITALITY AND VIABILITY OF THE CITY CENTRE

4.6 The NPPF advises that planning policies should be positive, promote competitive city centre environments and set out policies for the management and growth of centres. Generally outside cafes within the central shopping area are supported in appropriate locations as they can add to vitality. In this case an outside seating area could help generate activity and footfall, which will assist other traders in the street, and to this extent the proposal complies with national and local planning policy.

## AMENITY OF SURROUNDING OCCUPANTS

4.7 The NPPF requires planning decisions always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Local Plan policies S6 and S7 relate to the extension, alteration or development of premises for food and drink uses. The policy advises that such a use should only be permitted

provided there is no unacceptable impact on the amenities of surrounding occupiers, considering times of operation, noise, smell or litter.

4.8 In line with the seating areas to each side it is recommended the outside area closes at midnight and that recorded/amplified music is not audible outside the premises. Encouraging persons to use the area and the associated natural surveillance could arguably lead to more responsible behaviour in the area.

## HIGHWAY SAFETY

4.9 Only a single row of tables are proposed outside the premises, which would be on the footpath, and leave at least 4m for vehicle and pedestrian access. Little Stonegate is a foot-street where vehicles are restricted through the day. There are bollards located between nos. 1 and 3 which block the road and at the junction with Stonegate.

4.10 Currently in the area outside no.3 there is a break in the tables and chairs on the highway, which allows servicing vehicles to enter this part of the street whilst allowing persons to pass. There is concern persons with mobility problems would not be able to pass were this not the case. As such the applicants have agreed not to put out furniture until the foot street hours apply. Given that servicing predominantly takes place in the morning, and only a few premises are serviced from this area, placing tables and chairs on the highway in the evening would not lead to the highway being blocked.

## CRIME AND DISORDER

4.11 Matters of crime and disorder/security are predominantly dealt with through licensing legislation. No objections have been raised by the Police Architectural Liaison Officer.

## 5.0 CONCLUSION

5.1 By using conditions it can be ensured that the proposals have an acceptable impact, considering the appearance of the conservation area, the amenity of surrounding occupants, and the ability for the highway to continue to be used by all. Approval is recommended.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out in accordance with the revised plan 211C. The furniture placed on the highway shall be confined to the area shown on the approved plan and no additional tables and chairs to those shown on plan shall be placed on the highway.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 The tables and chairs shall only be placed on the highway between the commencement of foot street hours in the morning (currently 11.00 Monday to Saturday, 10.30 Saturdays and 12.00 Sundays) and 24:00 each day of the week.

Outside of the operating hours, all equipment associated with the use shall be removed from the public highway and the public realm shall be left in a tidy manner (i.e. any litter shall be cleared).

Reason: In the interests of users of the public highway and in the interests of the character and appearance of the conservation area.

4 The only furniture placed outside shall be tables and chairs, and any required means of enclosure to the cafe area. No umbrellas or other furniture shall be used and any replacement furniture shall be agreed in writing by the Local Planning Authority prior to its first use. The enclosure shall only be positioned as shown on the approved drawing and be in accordance with details shown on said plan. Any variation in the enclosure shall be approved in writing by the Local Planning Authority.

Reason: To maintain the appearance of the host building and the character and appearance of this part of the Central Historic Core Conservation Area.

5 There shall be no playing of amplified or recorded music.

Reason: In the interests of amenity and the character of the conservation area.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: revised plans to make the proposals acceptable and the use of planning conditions.

## 2. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on heritage assets, highway safety and amenity. As such the proposal complies with Policies HE2, S6 and S7 of the City of York Development Control Local Plan.

## 3. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Cafe Licence - Section 115 - Heather Hunter or Anne-Marie Howarth (01904) 551418

### **Contact details:**

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